

AMENDED IN SENATE MARCH 31, 1998

AMENDED IN SENATE MARCH 2, 1998

SENATE BILL

No. 1417

Introduced by Senator Knight

January 20, 1998

An act to amend Sections 417, ~~832.6, and 12050~~ and 832.6 of, and to repeal Section 417.1 of, the Penal Code, relating to peace officers.

LEGISLATIVE COUNSEL'S DIGEST

SB 1417, as amended, Knight. Peace officers.

(1) Existing law defines peace officer for purposes of the prohibition against every person drawing or exhibiting any firearm in a rude, angry, or threatening manner in the immediate presence of a peace officer.

This bill would revise this definition to include additional classifications of officers, including a reserve or auxiliary sheriff or city police officer, or a deputy sheriff, and accordingly make a conforming change by repealing the provision that specifically applies this definition to these officers for purposes of the above prohibition. By expanding the scope of a crime, the bill would impose a state-mandated local program.

(2) Under existing law, a level II reserve officer has the powers of a peace officer when he or she meets specified conditions that include, among other things, completion of the basic training course for deputy sheriffs and police officers prescribed by the Commission on Peace Officer Standards

and Training. Existing law also describes the duties of a level III reserve officer who, among other things, is required to be proximately supervised by a peace officer, as defined by a specified provision of law.

This bill would additionally require level II reserve officers to satisfy the continuing professional training requirement prescribed by the commission. The bill also would revise the provision covering level III reserve officers to require that they instead be supervised in the accessible vicinity by, among others, a *full-time, regular* peace officer employed by a law enforcement agency authorized to have reserve officers and include report taking among the duties of level III reserve officers while authorizing these officers to transport prisoners without immediate supervision.

~~(3) Existing law authorizes the sheriff of the county or the chief or other head of a municipal police department of any city or county to issue, upon proof that the person applying meets specified prerequisites and that the person is a person who has been deputized or appointed as a peace officer by that sheriff or that police chief or other head of a municipal police department, a license to carry concealed a concealable firearm.~~

~~This bill, in addition, would authorize a district or other agency authorized by statute to appoint peace officers to issue this license pursuant to this provision.~~

~~(4) The~~ California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 417 of the Penal Code is
2 amended to read:

3 417. (a) (1) Every person who, except in
4 self-defense, in the presence of any other person, draws

1 or exhibits any deadly weapon whatsoever, other than a
2 firearm, in a rude, angry, or threatening manner, or who
3 in any manner, unlawfully uses the same in any fight or
4 quarrel is guilty of a misdemeanor, punishable by
5 imprisonment in a county jail for not less than 30 days.
6 Every person who violates this section when the other
7 person is in the process of cleaning up graffiti or
8 vandalism is guilty of a misdemeanor, punishable by
9 imprisonment in a county jail for not less than three
10 months nor more than one year.

11 (2) Every person who, except in self-defense, in the
12 presence of any other person, draws or exhibits any
13 firearm, whether loaded or unloaded, in a rude, angry, or
14 threatening manner, or who in any manner, unlawfully
15 uses the same in any fight or quarrel is guilty of a
16 misdemeanor, punishable by imprisonment in a county
17 jail for not less than three months. Every person who
18 violates this section when the other person is in the
19 process of cleaning up graffiti or vandalism is guilty of a
20 misdemeanor, punishable by imprisonment in a county
21 jail for not less than three months nor more than one year.

22 (b) Every person who, except in self-defense, in the
23 presence of any other person, draws or exhibits any
24 loaded firearm in a rude, angry, or threatening manner,
25 or who, in any manner, unlawfully uses any loaded
26 firearm in any fight or quarrel upon the grounds of any
27 day care center, as defined in Section 1596.76 of the
28 Health and Safety Code, or any facility where programs,
29 including day care programs or recreational programs,
30 are being conducted for persons under 18 years of age,
31 including programs conducted by a nonprofit
32 organization, during the hours in which the center or
33 facility is open for use, shall be punished by imprisonment
34 in the state prison for one, two, or three years, or by
35 imprisonment in a county jail for not less than three
36 months, nor more than one year.

37 (c) Every person who, in the immediate presence of
38 a peace officer, draws or exhibits any firearm, whether
39 loaded or unloaded, in a rude, angry, or threatening
40 manner, and who knows, or reasonably should know, by

1 the officer's uniformed appearance or other action of
2 identification by the officer, that he or she is a peace
3 officer engaged in the performance of his or her duties,
4 and that peace officer is engaged in the performance of
5 ~~his or her duties is guilty of a felony, punishable by his or~~
6 ~~her duties, shall be punished by~~ imprisonment in a county
7 jail for not less than nine months and not to exceed one
8 year, or in the state prison.

9 As used in this section, "peace officer" means any
10 person designated as a peace officer pursuant to Chapter
11 4.5 (commencing with Section 830) of Title 3 of Part 2.

12 SEC. 2. Section 417.1 of the Penal Code is repealed.

13 SEC. 3. Section 832.6 of the Penal Code is amended to
14 read:

15 832.6. (a) Every person deputized or appointed, as
16 described in subdivision (a) of Section 830.6, shall have
17 the powers of a peace officer only when the person is any
18 of the following:

19 (1) A level I reserve officer deputized or appointed
20 pursuant to paragraph (1) or (2) of subdivision (a) or
21 subdivision (b) of Section 830.6 and assigned to the
22 prevention and detection of crime and the general
23 enforcement of the laws of this state, whether or not
24 working alone, and the person has completed the basic
25 training course for deputy sheriffs and police officers
26 prescribed by the Commission on Peace Officer
27 Standards and Training. For level I reserve officers
28 appointed prior to January 1, 1997, the basic training
29 requirement shall be the course that was prescribed at
30 the time of their appointment. Reserve officers
31 appointed pursuant to this paragraph shall satisfy the
32 continuing professional training requirement prescribed
33 by the commission.

34 (2) A level II reserve officer assigned to the
35 prevention and detection of crime and the general
36 enforcement of the laws of this state while under the
37 immediate supervision of a peace officer who has
38 completed the basic training course for deputy sheriffs
39 and police officers prescribed by the Commission on
40 Peace Officer Standards and Training, and the level II

1 reserve officer has completed the course required by
2 Section 832 and any other training prescribed by the
3 commission.

4 Level II reserve officers appointed pursuant to this
5 paragraph may be assigned, without immediate
6 supervision, to those limited duties that are authorized for
7 level III reserve officers pursuant to paragraph (3).
8 Reserve officers appointed pursuant to this paragraph
9 shall satisfy the continuing professional training
10 requirement prescribed by the commission.

11 (3) Level III reserve officers may be deployed and are
12 authorized only to carry out limited support duties not
13 requiring general law enforcement powers in their
14 routine performance. Those limited duties shall include
15 traffic control, security at parades and sporting events,
16 report taking, evidence transportation, parking
17 enforcement, and other duties that are not likely to result
18 in physical arrests. Level III reserve officers while
19 assigned these duties shall be supervised in the accessible
20 vicinity by a level I reserve officer or a *full-time, regular*
21 peace officer employed by a law enforcement agency
22 authorized to have reserve officers. Level III reserve
23 officers may transport prisoners without immediate
24 supervision. Those persons shall have completed the
25 training required under Section 832 and any other
26 training prescribed by the commission for those persons.

27 (4) A person assigned to the prevention and detection
28 of a particular crime or crimes or to the detection or
29 apprehension of a particular individual or individuals
30 while working under the supervision of a California peace
31 officer in a county adjacent to the state border who
32 possesses a basic certificate issued by the Commission on
33 Peace Officer Standards and Training, and the person is
34 a law enforcement officer who is regularly employed by
35 a local or state law enforcement agency in an adjoining
36 state and has completed the basic training required for
37 peace officers in his or her state.

38 This training shall fully satisfy any other training
39 requirements required by law, including those specified
40 in Section 832.

1 In no case shall a peace officer of an adjoining state
2 provide services within a California jurisdiction during
3 any period in which the regular law enforcement agency
4 of the jurisdiction is involved in a labor dispute.

5 (b) Notwithstanding subdivision (a), a person who is
6 issued a level I reserve officer certificate before January
7 1, 1981, shall have the full powers and duties of a peace
8 officer as provided by Section 830.1 if so designated by
9 local ordinance or, if the local agency is not authorized to
10 act by ordinance, by resolution, either individually or by
11 class, if the appointing authority determines the person
12 is qualified to perform general law enforcement duties by
13 reason of the person's training and experience. Persons
14 who were qualified to be issued the level I reserve officer
15 certificate before January 1, 1981, and who state in writing
16 under penalty of perjury that they applied for but were
17 not issued the certificate before January 1, 1981, may be
18 issued the certificate before July 1, 1984. For purposes of
19 this section, certificates so issued shall be deemed to have
20 the full force and effect of any level I reserve officer
21 certificate issued prior to January 1, 1981.

22 (c) In carrying out this section, the commission:

23 (1) May use proficiency testing to satisfy reserve
24 training standards.

25 (2) Shall provide for convenient training to remote
26 areas in the state.

27 (3) Shall establish a professional certificate for reserve
28 officers as defined in paragraph (1) of subdivision (a) and
29 may establish a professional certificate for reserve officers
30 as defined in paragraphs (2) and (3) of subdivision (a).

31 (4) Shall facilitate the voluntary transition of reserve
32 officers to regular officers with no unnecessary
33 redundancy between the training required for level I and
34 level II reserve officers.

35 (5) Shall develop a supplemental course for existing
36 level I reserve officers desiring to satisfy the basic training
37 course for deputy sheriffs and police officers.

38 (d) In carrying out paragraphs (1) and (3) of
39 subdivision (c), the commission may establish and levy
40 appropriate fees, provided the fees do not exceed the cost

1 for administering the respective services. These fees shall
2 be deposited in the Peace Officers' Training Fund
3 established by Section 13520.

4 (e) The commission shall include an amount in its
5 annual budget request to carry out this section.

6 ~~SEC. 4. Section 12050 of the Penal Code is amended~~
7 ~~to read:~~

8 ~~12050. (a) (1) (A) The sheriff of a county, upon~~
9 ~~proof that the person applying is of good moral character,~~
10 ~~that good cause exists for the issuance, and that the person~~
11 ~~applying is a resident of the county or a city within the~~
12 ~~county, may issue to that person a license to carry a pistol,~~
13 ~~revolver, or other firearm capable of being concealed~~
14 ~~upon the person in either one of the following formats:~~

15 ~~(i) A license to carry concealed a pistol, revolver, or~~
16 ~~other firearm capable of being concealed upon the~~
17 ~~person.~~

18 ~~(ii) Where the population of the county is less than~~
19 ~~200,000 persons according to the most recent federal~~
20 ~~decennial census, a license to carry loaded and exposed~~
21 ~~in that county a pistol, revolver, or other firearm capable~~
22 ~~of being concealed upon the person.~~

23 ~~(B) The chief or other head of a municipal police~~
24 ~~department of any city or city and county, upon proof~~
25 ~~that the person applying is of good moral character, that~~
26 ~~good cause exists for the issuance, and that the person~~
27 ~~applying is a resident of that city, may issue to that person~~
28 ~~a license to carry a pistol, revolver, or other firearm~~
29 ~~capable of being concealed upon the person in either one~~
30 ~~of the following formats:~~

31 ~~(i) A license to carry concealed a pistol, revolver, or~~
32 ~~other firearm capable of being concealed upon the~~
33 ~~person.~~

34 ~~(ii) Where the population of the county in which the~~
35 ~~city is located is less than 200,000 persons according to the~~
36 ~~most recent federal decennial census, a license to carry~~
37 ~~loaded and exposed in that county a pistol, revolver, or~~
38 ~~other firearm capable of being concealed upon the~~
39 ~~person.~~

~~(C) The sheriff of a county or the chief or other head of a municipal police department of any city or city and county, or district or agency authorized by statute to appoint peace officers, upon proof that the person applying is of good moral character, that good cause exists for the issuance, and that the person applying is a person who has been deputized or appointed as a peace officer pursuant to subdivision (a) or (b) of Section 830.6 by that sheriff or that chief of police or other head of a municipal police department, or district or agency authorized by statute to appoint peace officers, may issue to that person a license to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person. Direct or indirect fees for the issuance of a license pursuant to this subparagraph may be waived. The fact that an applicant for a license to carry a pistol, revolver, or other firearm capable of being concealed upon the person has been deputized or appointed as a peace officer pursuant to subdivision (a) or (b) of Section 830.6 shall be considered only for the purpose of issuing a license pursuant to this subparagraph, and shall not be considered for the purpose of issuing a license pursuant to subparagraph (A) or (B).~~

~~(2) A license issued pursuant to subparagraph (A) or (B) of paragraph (1) is valid for any period of time not to exceed one year from the date of the license. A license issued pursuant to subparagraph (C) of paragraph (1) to a peace officer appointed pursuant to Section 830.6 is valid for any period of time not to exceed three years from the date of the license, except that the license shall be invalid upon the conclusion of the person's appointment pursuant to Section 830.6 if the three-year period has not otherwise expired or any other condition imposed pursuant to this section does not limit the validity of the license to a shorter time period.~~

~~(b) A license may include any reasonable restrictions or conditions which the issuing authority deems warranted, including restrictions as to the time, place, manner, and circumstances under which the person may~~

1 ~~carry a pistol, revolver, or other firearm capable of being~~
2 ~~concealed upon the person.~~

3 ~~(e) Any restrictions imposed pursuant to subdivision~~
4 ~~(b) shall be indicated on any license issued.~~

5 ~~(d) A license shall not be issued if the Department of~~
6 ~~Justice determines that the person is within a prohibited~~
7 ~~class described in Section 12021 or 12021.1 of this code or~~
8 ~~Section 8100 or 8103 of the Welfare and Institutions Code.~~

9 ~~(e) (1) The license shall be revoked by the local~~
10 ~~licensing authority if at any time either the local licensing~~
11 ~~authority is notified by the Department of Justice that a~~
12 ~~licensee is within a prohibited class described in Section~~
13 ~~12021 or 12021.1 of this code or Section 8100 or 8103 of the~~
14 ~~Welfare and Institutions Code, or the local licensing~~
15 ~~authority determines that the person is within a~~
16 ~~prohibited class described in Section 12021 or 12021.1 of~~
17 ~~this code or Section 8100 or 8103 of the Welfare and~~
18 ~~Institutions Code.~~

19 ~~(2) If at any time the Department of Justice~~
20 ~~determines that a licensee is within a prohibited class~~
21 ~~described in Section 12021 or 12021.1 of this code or~~
22 ~~Section 8100 or 8103 of the Welfare and Institutions Code,~~
23 ~~the department shall immediately notify the local~~
24 ~~licensing authority of the determination.~~

25 ~~(3) If the local licensing authority revokes the license,~~
26 ~~the Department of Justice shall be notified of the~~
27 ~~revocation pursuant to Section 12053. The licensee shall~~
28 ~~also be immediately notified of the revocation in writing.~~

29 ~~(f) (1) A person issued a license pursuant to this~~
30 ~~section may apply to the licensing authority for an~~
31 ~~amendment to the license to do one or more of the~~
32 ~~following:~~

33 ~~(A) Add or delete authority to carry a particular pistol,~~
34 ~~revolver, or other firearm capable of being concealed~~
35 ~~upon the person.~~

36 ~~(B) Authorize the licensee to carry concealed a pistol,~~
37 ~~revolver, or other firearm capable of being concealed~~
38 ~~upon the person.~~

39 ~~(C) If the population of the county is less than 200,000~~
40 ~~persons according to the most recent federal decennial~~

~~1 census, authorize the licensee to carry loaded and
2 exposed in that county a pistol, revolver, or other firearm
3 capable of being concealed upon the person.~~

~~4 (D) Change any restrictions or conditions on the
5 license, including restrictions as to the time, place,
6 manner, and circumstances under which the person may
7 carry a pistol, revolver, or other firearm capable of being
8 concealed upon the person.~~

~~9 (2) When the licensee changes his or her address, the
10 license shall be amended to reflect the new address and
11 a new license shall be issued pursuant to paragraph (3).~~

~~12 (3) If the licensing authority amends the license, a new
13 license shall be issued to the licensee reflecting the
14 amendments.~~

~~15 (4) The licensee shall notify the licensing authority in
16 writing within 10 days of any change in the licensee's
17 place of residence. If the license is one to carry concealed
18 a pistol, revolver, or other firearm capable of being
19 concealed upon the person, then it may not be revoked
20 solely because the licensee changes his or her place of
21 residence to another county if the licensee has not
22 breached any conditions or restrictions set forth in the
23 license or has not fallen into a prohibited class described
24 in Section 12021 or 12021.1 of this code or Section 8100 or
25 8103 of the Welfare and Institutions Code. If the license
26 is one to carry loaded and exposed a pistol, revolver, or
27 other firearm capable of being concealed upon the
28 person, the license shall be revoked immediately if the
29 licensee changes his or her place of residence to another
30 county.~~

~~31 (5) An amendment to the license does not extend the
32 original expiration date of the license and the license shall
33 be subject to renewal at the same time as if the license had
34 not been amended.~~

~~35 (6) An application to amend a license does not
36 constitute an application for renewal of the license.~~

~~37 SEC. 5.~~

~~38 SEC. 4. No reimbursement is required by this act
39 pursuant to Section 6 of Article XIII B of the California
40 Constitution because the only costs that may be incurred~~

1 by a local agency or school district will be incurred
2 because this act creates a new crime or infraction,
3 eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section
5 17556 of the Government Code, or changes the definition
6 of a crime within the meaning of Section 6 of Article
7 XIII B of the California Constitution.

8 Notwithstanding Section 17580 of the Government
9 Code, unless otherwise specified, the provisions of this act
10 shall become operative on the same date that the act
11 takes effect pursuant to the California Constitution.

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